

**RUMSON ZONING BOARD OF ADJUSTMENT
FEBRUARY 17, 2009
MINUTES**

Chairman Conklin called the regular meeting to order at 7:30 p.m. with the Pledge of Allegiance. The Roll was called, with the following members present: Conklin, Kniesler, McGuire, Parton, Brodsky, Wood, Gummer (arr. 7:40 p.m.). Also present: Fred Andre (Zoning Officer), Bernard Reilly (Board Attorney), State Shorthand.

The requirements of the Open Public Meetings Act were stated as met.

Chairman Conklin reminded everyone that the March meeting will be on **Monday, March 16th**.

Chairman Conklin announced that the application of Kelly Zaccaro, 25 Church St., will be continued to the March 16th meeting, starting at 7:30 p.m.

Scott & Leah Soltas, 95 Ridge Road

Mark Aikens, attorney, appeared on behalf of the applicants. He reported that the applicants continue to try and speak to the neighbors that have expressed strong concerns. He believes that the parties should speak and try to resolve these concerns; however, this has not happened as yet. He asked that the matter be carried for another month, in order to allow them to attempt to address these concerns with the objectors. The Board agreed to this request. No further notice will be required, unless the plan is changed significantly.

Ms. Gummer joined the meeting at this time (7:40 pm).

C.J.S. Investments, Inc., 172 Bingham Ave.

Dennis Collins, attorney, appeared on behalf of the applicants, along with Stewart Challoner, architect, who was sworn in at this time. He described the existing property, noting it is an existing developed lot with a one-story ranch, about 4,000 sq. ft., on the corner of Bingham Ave and Horatius Way. The property abuts a vacant lot to the south and a developed property to the west. On the west side there is a wetland corridor and an LOI has been issued. The plan was marked A-1, dated 6/20/08.

The existing structure has existing nonconformities:

- Horatius Way Lot frontage – 225' where 250 are required;
- Lot circle requirement – 115' required / 110' provided.

The applicant proposes a two-story structure with the front door on Horatius Way. The Bingham Ave. side would have a 65' setback, which conforms. The structure conforms in all requirements of the zoning ordinances.

Exhibit A-2 shows the architect's elevations and floor plan layouts. The only variances are for the property and not the structure. The proposed plan showing the house facing Bingham Ave. (A-3) would require a variance for front yard setback, since the front door would be facing Bingham Ave. and the setback would need to be 100'. The plan being presented only requires a 65' setback. The existing structure only provides 50' to the front setback. The applicant would not propose the house face Bingham Ave because design waivers would be required, as well as a front yard setback variance. It would also be affected by the existing wetlands.

There are three permits being sought from the DEP to maintain the existing buffer and allow the property to remain as is with the new structure. Also, the layout of the house facing Horatius Way gives a greater backyard area, which would face a vacant lot with restricted development, as opposed to having it face a developed lot, as it is today.

Mr. Reilly asked Mr. Collins about the figures presented by the Building Department, as opposed to their plan, as they do not seem to concur. Chairman Conklin thinks this is due to the figures for useable area. Mr. Andre was sworn in and stated that the maximum building coverage numbers were worked out with Mr. Challoner, and Mr. Andre's numbers are based on the useable lot area (1.19 acres). This conforms to Mr. Challoner's numbers.

The height on the plan is shown as 42', which is higher than the existing house. Mr. Andre said the height will be measured from the existing grade. The fill being brought in is for the flood elevation requirement. The proposed house is 28' high.

There is no pool or pool house proposed at this time.

Mr. Kniesler likes the house facing Horatius Way, and Mrs. McGuire agreed.

Mr. Collins noted that if the Board approved the plan, the actual house may be reduced in size.

Mr. Reilly asked if Horatius Way was a private right-of-way. Mr. Challoner said the town maintains the street, although it is a private right-of-way, but it is treated as a public right-of-way.

John Galinos, 1 Horatius Way, was sworn in and noted that Horatius Way is a narrow street, and he expressed concerns regarding construction vehicles using the street, which might make it difficult to get into the street. Also, the paving of the street was done privately, and he is concerned that construction vehicles might damage the street, asking who would be responsible for repairing the road. He has lived on the street for three months.

He also asked about the removal of any trees in the wetlands area. Mr. Challoner said they are not proposing any disturbances to the wetlands area, and this area is subject to the DEP deed restriction.

With regard to the construction vehicles issue, Mr. Collins said it could be a condition that construction equipment be made to enter the property from Bingham Ave. Also, a stone construction driveway could be installed during construction. Mr. Galinos said this would be satisfactory to him. This would be made a part of the resolution.

The address would be 172 Bingham Ave., and Mr. Andre did not know if this could be changed to Horatius Way.

There were no other questions or comments from the public. Mrs. McGuire thinks there is a hardship shown, since it is a lot with a water issue in the rear. She does not have a problem with the application, and she moved to approve it, subject to the conditions mentioned and the required permits from the DEP. Mr. Parton seconded.

Roll Call Vote: Ayes – Conklin, McGuire, Brodsky, Parton, Kniesler, Wood, Gummer

Nays – None

Motion carried.

Gary & Janet Prestipino, 70 Bingham Ave.

Mr. & Mrs. Prestipino were sworn in and described their proposal to construct a new covered front porch and dormers, side and front two-story additions, and make other exterior renovations. They are trying to fill in a corner between the house and the existing garage. The existing dormer will be changed in shape, and a new dormer will be added to match.

Mr. Kniesler thinks the ridgeline appears higher in the new plan. Mr. Prestipino said they are not adding any additional attic space. The existing roof will not change, and the new roof will match the existing roof. Mr. Kniesler noted that only an architect or a homeowner can draw plans, and Mr. Prestipino said that their friend drew their plans.

Mrs. McGuire does not think they can continue, since the plans were not drawn by the homeowner or an architect. Mr. Reilly suggested the matter be carried to the next meeting to allow them to resubmit the plans. If the plans do not change materially, they would not need to renotice.

There were no questions or comments from the public. The application will be carried to the March meeting.

Frank & Susan Walsh, 1 Bingham Hill Lane

Michael Lechstein, attorney, appeared on behalf of the applicants. He reviewed that the Board previously approved the application, and they now would like to amend the approval for the main portion of the house. The footprint and height will be the same. They are proposing larger windows, and the pitch of the roof has been changed. They are proposing a 9' height for the first floor, instead of 8'. They are proposing to take out three of the first floor walls and retain the basement, foundation, and one wall, putting them over 50% new construction, requiring a "tear down" status, instead of a renovation.

There were no questions or comments from the public. Mr. Parton moved to approve the application, with the conditions of the original approval to be continued. Mrs. McGuire seconded.

Roll Call Vote: Ayes – Conklin, McGuire, Brodsky, Parton, Kniesler, Wood, Gummer
Nays – None

Motion carried.

Robert & Anne McGinty, 22 Holly Tree Lane

Mark Aikens, attorney, appeared on behalf of the applicants. James Anderson, architect, was sworn in at this time. The only variance is for the front yard setback, which is currently a nonconforming condition. They will be increasing this nonconformity by 7'. The application conforms in all other respects.

Mr. & Mrs. McGinty were sworn in at this time. The Board accepted Mr. Anderson's qualifications. He located the home on the street and noted that they are proposing to bring the home up to current standards and enhance some exterior characteristics of the building. The house is similar to many built in the 1950-1960 era with no front porch. There is a large living room and a small dining room and foyer. The kitchen has access to the garage and back of the house. There is no mudroom on the first floor. The second floor has a common layout. They are proposing to add a front porch. They will be making the living room into a library/study, making it a little smaller by enlarging the foyer. The dining room will be slightly enlarged to

accommodate entertaining. The family room will be connected to the kitchen, and the kitchen will be made a focal point of the house. There will also be a mudroom. The play area will be moved downstairs.

The second floor will have a master suite over the garage, and the laundry will be moved upstairs. The appearance of the house will be made more unified and more even. They are proposing to take the same detail from the front and bring it around the whole house. The proposed addition is mostly conforming, and the part that encroaches into the front is pushed back from what currently exists. The front porch is an aesthetic enhancement to the look of the house.

The exhibits were marked for the record:

- A-1 – the initial package
- A-2 – the colored rendering
- A-3 – site plan
- A-4 – floor plan.

The distance from the north end of the house to the property line is 125', the west distance to the rear yard is 44', and the south distance is 76.5' – all of which meet the requirements of the ordinance. The only variance they seek is the front setback (75' required / 48.5' provided). The nonconformity of the garage will be reduced with this plan. The positive criteria will be advanced by the proposal, in Mr. Anderson's opinion. He sees no detriment to any surrounding properties with this plan.

There were no questions or comments from the public. Mrs. McGuire thinks the application is an improvement and moved to approve it. Mr. Kniesler seconded.

Roll Call Vote: Ayes – Conklin, McGuire, Brodsky, Parton, Kniesler, Wood, Gummer

Nays – None

Motion carried.

Resolutions

1. Robert November, 21 Conover Lane – approval for addition of third garage bay, construction of second floor above existing garage bays. Mr. Andre reported that no landscape plan has been provided, as required, although he thought it would be provided prior to the issuance of the building permit. Mr. Parton moved to adopt the resolution, providing the landscape plan is submitted. Mrs. McGuire seconded.

Roll Call Vote: Ayes – Conklin, McGuire, Brodsky, Parton, Kniesler, Wood, Gummer

Nays – None

Motion carried.

Approval of Minutes

Mr. Brodsky moved to approve the minutes, with corrections, and Mrs. McGuire seconded. Voice Vote: Ayes, unanimous.

Chairman Conklin will recuse himself from sitting in on the final two applications, and Vice-Chairman Kniesler will take over the meeting at this time.

Richard & Cindy Leli, 8 North St.

Mr. Leli was sworn in and described his plan to add a master bedroom and bath. He started construction because they had a major leak in the foundation in the area of the Bilco door and the foundation of the new addition that was added recently. He covered the Bilco door foundation with a one-story frame, allowing this area to be enclosed and become a part of the home. He went for a building permit and discovered he needed variances, so he put together his application for the two-story addition at that time. They would also like to add a 4th bedroom and a covered front porch, since the front of his house is very flat, and they would like to add some character. He has lived in the house for 2 ½ years.

The ridgeline will not change. There will be an a-frame roof over the front porch, but this will not be above the ridgeline. The addition will add a bedroom above the dining room.

Mr. André said there is no problem with the FAR, as the lot is very deep (5,000 sq. ft. required / 7,500 sq. ft. existing). They do not have a garage.

William Walton, 9 North St., was sworn in and expressed a concern that the front porch will increase the nonconformity in the front. He agrees that the porch makes it look better, but he thinks they could have a smaller proposal. Mr. Leli said most of the homes on his block extend closer to the street than his proposal. They currently have a landing with steps down to the front. The depth of the new porch is proposed at 7'.

Vice-Chairman Kniesler noted that another home that was before the Board put steps on the side, so that it did not encroach as much into the front setback, and he asked Mr. Leli if he could do this. Mr. Leli said he could perhaps have one less step, and that would decrease the amount of nonconformity proposed.

Mrs. McGuire likes the suggestion to have the steps to the side or set into the porch, which they have required on other applications.

Mr. Brodsky likes the idea of a porch, but agrees that they could possibly make it less of a nonconformity to the street.

Mr. Leli said he could possibly offset the stairs, allowing him to set them into the porch. Mr. Andre noted that steps are allowed to come 3' into the setback.

Vice-Chairman Kniesler suggested Mr. Leli make the porch 6' deep, instead of 7', which would only require a 3' variance.

There were no other questions or comments. Mr. Parton moved to approve the application, subject to the reduction of the front variance for the porch as suggested. Mrs. McGuire seconded.

Roll Call Vote: Ayes – McGuire, Brodsky, Parton, Kniesler, Wood, Gummer
Nays – None

Motion carried.

A revised plan will be submitted prior to the next meeting, showing the changes to the porch.

Joseph & Shannon Novak, 11 North St.

Mr. & Mrs. Novak were sworn in. Mrs. North explained that they need a variance for an existing side yard (8' required / 7.25' provided) and also for a front setback (30' required / 16.4' provided). Their proposal is to open the enclosed porch and make it an open porch.

Mr. Richard Leli, builder, was sworn in at this time. Vice-Chairman Kniesler noted they are almost doubling the width of the house and adding a garage. Mr. Novak said that the house is very narrow and small.

Mr. Leli said the two-car garage will be removed, and a one-car garage added to the left side of the home. They will be enlarging the master bedroom and adding another bedroom. Mr. Kniesler questioned an area on the second floor that appears to open to the garage, and Mr. Leli explained that the area above the garage will be an open loft area to be used for storage.

Mr. Kniesler noted that a four-bedroom house would require three parking spaces, and they are only providing two. He feels that the state standards should be met for off-street parking, as they are making many changes to the structure. The driveway is 17' at the widest part. Adding more room to the side to extend the width from 17' to 20' would require a variance. They would need to be 1' off the property line for the driveway. He thinks that they are still short of storage space. Mr. Novak said they could possibly get a storage shed, although this would affect the building coverage, which is at maximum right now.

Mr. Walton, speaking from the public, was again sworn in and questioned the area on the first floor that was proposed as a bedroom.

Mr. Kniesler does not think they have enough space on the lot to accommodate all their needs.

Ms. Gummer noted that the storage space is not an ordinance requirement.

Mr. Kniesler would like to see them make the application more conforming.

Mrs. McGuire asked if they could make it a two-car garage, and Mr. Novak said they do not have enough room. It was suggested to reduce the living space in the house and increase the garage/storage area. She does not think the plan is practical, because they are asking for more square footage in the house, but providing less parking/storage areas. She thinks they need more room for storage on the first floor. If they can make the garage bigger, the plan would be looked at more favorably. They may need to make the house slightly smaller.

The application will be continued to the March meeting, and new plans will need to be submitted before that meeting. The applicant will be required to renotice for the changed plans, unless they stay in the existing footprint. Any substantial change will require a new notice.

There being no further business, motion was made and seconded to adjourn. Voice Vote: Ayes, unanimous. The meeting was adjourned at 9:45 p.m.

Respectfully submitted,

Patricia Murphy